

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PEDRO TAVARES,
Plaintiff,

-against-

N.Y.C. BELLEVIEW HOSPITAL;
LYNDA D. CURTIS, B.H. V.P.;
MICHAEL DEUTSCH, B.H. Dr.;
BARTOSZ GROBELNY, B.H.Dr.;
LAWRENCE MEITELES, Otolaryngology;
NELSON MUTHRA, Medical Provider;
MARYANN GENOVESE, Medical director;
MARK SCOTT, Deputy Warden Commander.
Defendants.

AMENDED COMPLAINT

Under the Civil Rights Act,
42 U.S.C. § 1983

Jury Trial Requested

13-Civ.-3148-(PKC)-(MHD)

I. Parties in this complaint:

Plaintiff's

Pedro Tavares
ID # 11-A-2764
Franklin Correctional Facility
P.O.BOX: 10,62 Bare Hill Road
Malone, New York 12953

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

DATE FILED: 1/10/14

Defendant No.1

New York City Bellevue Hospital
462 First Street
New York, New York 10016

Defendant No.2

Lynda D. Curtis, B.H. Senior V.P.
Bellevue Hospital
462 First Ave.
New York, N.Y. 10016

Defendant No.3

Micheal Deutsch, Resident Physician at Bellevue Hospital
Bellevue Hospital Center
Risk management ME-22
462 First avenue
New York, New York 10016

Defendant No.4

Bartosz Grobelny, Doctor at Bellevue Hospital
Bellevue Hospital Center
Risk Management ME-22
462 First Avenue
New York, New York 10016

Defendant No.5

Lawrence Meiteles, Otolaryngology at Fishkill RMU
18 Strack Drive
Beacon, New York 12508-0307

Defendant No.6

Nelson Muthra, RPA at Sing Sing CF
354 Hunter Street
Ossining, New York 10562-5442

Defendant No.7

Maryann Genovese, MD at Sing Sing CF
354 Hunter Street
Ossining, New York 10562-5442

Defendant No.8

Mark Scott, Deputy Warden Commander, incharge of the prison ward
30th Street & First avenue
New York, New York 10016

II.

1). Plaintiff Pedro Tavares Pro-se, filed a complaint on May 3th,2013, agaিসnt the above-captioned Defendants pursuant to 42 U.S.C. § 1983, seeking damages against the Defendants for committing medical negligences, medical malpractice, and been deliberate indifference to Plaintiff medical needs, in violation of Plaintiff Eight Constitutional Amendment rights. This claim arises under 42 U.S.C. § 1983, which creates a civil cause of action against individuals who, while acting under color of State Law, deprives a person of that "Right, Privileges or Immunities secured by the Constitution and Law" of the United States.

2). Plaintiff now files this Amended Complaint by Order of the Court, after all John Does defendants and other defendants has been properly name in the above-mentioned pending matter before this Honorable District Court for the Southern District of New York.

(JURISDICTION)

#). This Honorable District court for the Southern District of New York has jurisdiction of this Civil Action under 42 U.S.C. § 1331.

The Honorable Court also has jurisdiction pursuant to 28 U.S.C § 1343 to properly entertain this Civil Action.

(STATEMENT OF CLAIM)

4). Plaintiff Pedro Tavares, pro-se, is a permanent resident of the State of New York, presently being incarcerated at the Franklin Correctional Facility by the State of New York Department of Corrections, located at P.O.BOX: 10,62 Bare Hill Road, Malone, New York 12953, awaiting an appeal of a criminal conviction matter which shall or must be resolve at the Appellate Division for the First Department.

5). When all the violation against Plaintiff took place, Plaintiff were been detained by the City of New York Department of Corrections at George R. Vierno Center, located at 09-09 Hazen Street East Elmhurst New York 11370, and the violaiton took place at the Bellevue Hospital Prison Ward , located at 462 First Avenue, New York N.Y.10016.

6). The entire violations of Medical Malpractice, Medical Negligence, and Deliberate Indifferent to Plaintiff's medical needs, in violation of Plaintiff U.S. Constitutional Eight Amendment Rights began to take place when Plaintiff was discharged from Bellevue Hospital on March 10th,2011, by Defendant Michael Deutsch, with out giving any instruction to the Medical Clinic of George R. vierno Center, and discharging Plaintiff "only" hours after the surgery been performed on the same date for Carpal Tunnel Syndrom, and by not ordering the transportation Officers not to put hand-cuff on the left hand while Plaintiff been transported from Bellebiew Hospital to the George R. Vierno Center, the hand got infected and the infection went all the way up to elbow, or further up to the arm.

7). Do to the infection in the surgery left hand for Carpal Tunnel Syndrom, Plaintiff was ordered to be taking back to Bellevue Hospital by the George R. vierno Center Clinic on March 17th, 2011, Plaintiff

were taking back to the Belleview Hospital Emergency Room, and were admitted until March 22th,2011. Plaintiff was put on IV Antibiotic, and other medication for a period of six days in order to stop the infection, and avoiding the hand to be amputated. The administration of the antibiotic and other medication was ordered by Defendant Dr. Bartosz Grobelny without taking any precautionary measure, not taking into account that Plaintiff age, and other permanent illnesses that Plaintiff is suffering from, such as high blood pressure, and cronic back problem, and diabetic type 2, could have affected Plaintiff hearing side, without ordering the necessary test before the administration of the antibiotic to eliminates the infection.

8). That while Plaintiff was in the Hospital from March 17th,2011 to March 22th,2011, during the time, Plaintiff began to felted and started to noticed that he was loosing his hearing side, on and off, and when Plaintiff notified on of the nurses, on the same day, a Doctor came to see me, and told me that he was ordering some special test on me, and after the ordered test were done, Plaintiff was discharged from the Hospital without notifying Plaintiff of his hearing situation, or giving Plaintiff any information on the test result.

9). On the 27th day of March 2011, Plaintiff were transfered to Downstate Correctional Facility, where audiology test were performed, and Plaintiff was diagnosed with High Tone Hearing Impairment on both side, which wer cost do to the excessive amount of antibiotic ordered by Defendant Dr. Bartosz Grobelny.

10). On 07/08/2011, Dr. Noriel Deguzman at Downstate correctional Facility ordered by appointment to see an otolaryngology specialist, and on 07/15/2011, Plaintiff saw Defendant Dr. Lawrence Meiteles, who stted that Plaintiff was exposed to work construction, without any facts to support or make such of statement, which constitute conspiracy

to cover-up a medical negligence by the Defendants at Bellevue Hospital. Plaintiff has never worked in construction in which noisy machineries has been used, nor that Plaintiff ever told Defendant Dr. Lawrence Meiteles that plaintiff ever worked in construction in order for Dr. Meiteles to make such statement, wherefore, the only purposed of this statement on his medical report is to cover-up the medical negligence and medical malpractice of the other defendants on this civil action. Plaintiff has been incarcerated since April 24th, 2007, and if this hearing loss impairment would had been caused by been exposed to working in construction, then this hearing loss would had occurred way before 2011, which clearly indicates that the hearing loss occurred because of the excessive amount of IV antibiotic that Defendant Dr. Bartosz Grobelny used to controlled the infection of the left hand surgery for carpal tunnel syndrome that was performed on March 10th, 2011 at the Bellevue Hospital.

11). Defendants Dr. Nelson Muthra, and MD Maryann Genovese went even further in trying to cover-up the Defendants at Bellevue Hospital by stating that Plaintiff hearing loss was indeed due to working in construction with heavy equipments without any facts to support their statement, making Dr. Muthra and MD Genovese co-conspirator by trying to support or endorsed Defendant Dr. Lawrence Meiteles medical report of 07/15/2011, in order to cover-up the medical negligence of the Defendants at Bellevue Hospital. This Defendants tried to cover-up the cause of the hearing loss in attempting to avoid the truth of the matter---- the standards to satisfied only when the patient can show a reasonable probability that, the negligent act, the injury have been avoided.

12). Defendant City Of New York Bellevue Hospital is an entity of the City of New York, where the City of New York is responsible for

the Hospital employees wrong action against a Plaintiff, to which, has been wrongfully treated at the Hospital.

13). Defendant Lynda D. Curtis is in charge of the Hospital personnel and the operation of the N.Y.C. Bellevue Hospital, therefore, Miss Curtis is directly involved with the employees that work at Bellevue Hospital on their individual capacity, and is responsible for her employees' wrong action when they do not follow medical protocol in treating a patient properly.

14). Defendant Mark Scott was the Commander in charge of the prison ward at the time Plaintiff was transported in and out of the Bellevue hospital, wherefore, Defendant Scott must make sure that his Officers follow rules and regulation of how to transport an inmate who yet has been discharged out of the prison ward, to properly handcuff the inmate in order to protect that inmate, that no further harm be inflicted upon the inmate's hand. Mr. Scott is liable for allowing his Officers to put the inmate's life at risk, in cuffing a hand that a surgery was performed yet hours before, and by receiving an inmate with an open and unprotected wound on his left hand, and then cuffing him.

(INJURIES)

15). Related to the medical negligence, in leaving the surgery left hand open and allowing the Officers to handcuff the hand for security transportation, Plaintiff suffered an infection on his left hand, Plaintiff was in pain for over a week, and also suffered psychological pain, thinking that his arm needed to be amputated, due to the severe infection suffered. Plaintiff received treatment of IV antibiotic and other medication at the Bellevue Hospital, ordered by defendant Dr. Bartosz Grabelny, from March 17th, 2011 to March 22nd, 2011.

16). related to the medical malpractice, Plaintiff lost his high hearing tone in both hearing side, which lefted Plaintiff with permanent impairment of high hearing for the rest of Plaintiff life, and wear hearing aids for the rest of Plaintiff life. Plaintiff has been treated with hearing aids and other medication in order to be able to communicate and be able to hear high tone noises, such as vehicle driving by, and low speaker, ect.

17). Related to been deliberate indifference of defendant Michael deutsch releasing Plaintiff from the Hospital on March 10th,2011 with an unbandage same day surgery, and defendant Mark Scott Officers putting hand-cuff on the left hand, the hand got infected to a degree that Plaintiff almost lost his left hand, and living Plaintiff for life with Hearing impairment in both side of his hearing.

(EXHAUSTION OF ADMINISTRATIVE REMEDIES)

18). Since Plaintiff was transfered to Downstate Correctional Facility, Plaintiff amended additional charges to the already claim under No. 20111PO20084, bases on new discovery damages, after Plaintiff was test by the audiology, and declared Plaintiff with permanent hearing impairment, notifying the Office of the New York city controller.

19). The New York City Department of corrections grievance system do not cover medical claims, because the City Jails medical department is under contract by the City of new York.

20). But, Plaintiff did not filed a grievance with the New York City departmetn of corrections, because Plaintiff was transfered out of the department almost immediately after Plaintiff was discharged from belleview Hospital on March 22th,2011.

21). attach to this complaint is a copy of the Notice of Acknowledgment, and a copy of the amended notice of intent after plaintiff having knowledge of his hearing lsot.

22). Plainiff indeed filed a civil action in the New York city civil Court in 2012 but the court never processed and after a year waiting for the New York city civil Court at 111 center Street to process the action and been notified that the clerk of the court never docketed the action, I then decided to fule the action with the present court.

23). I filed a civil action agaিসnt the Department of Homeland security for illegal mandatory detention in the State of New Jersey but it was dismissed as time barred. I do not recall the docket Number at this time, but it shall be in the court computer system.

(RELIEF)

24). In relation to the Medical Malpractice, Medical Negligence and the deliberate Indifference to Plaintiff medical needs. Plaintiff ask for a judgment in punitive damages, and compensatory damages in the maount of ten millions dollars \$10,000,000, Hearing aids, Hearing aids replacements while and when it need its for life, and the cost of this civil action, and such other relief as this Honorable court may deem just and equitable.

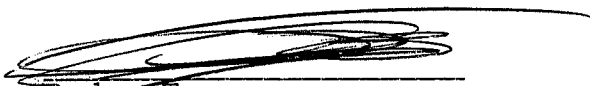
I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

dated: Malone, New York
January 7th, 2013

Respectfully Submitted,

cccopy:

Omar H. Tuffaha
assistant Corp. Counsel
City of New York Lae Dept.
100 Church street
New York, N.Y. 10007



Pedro Tavares-pro-se
DIN # 11-A-2764
Franklin Corr. Facility
P.O.BOX: 10
62 Bare Hill Road
Malone, New York 12953

I declare under penalty of perjury that on this 7th day of January, 2013, I am delivering this complaint to prison authorities to be mailed to the PRO-SE Office of the United states district Court for the southern District of New York.

Plaintiff Signature 



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
CLAIMS AND ADJUDICATIONS
1 CENTRE STREET ROOM 1200
NEW YORK, N.Y. 10007-2341

WWW.COMPTROLLER.NYC.GOV

Michael Aaronson
Chief, Bureau of Law and
Adjustment

015 - 151

John C. Liu
COMPTROLLER

Date: 05/27/2011
Claim No: 2011PI020084
RE: Acknowledgment of Claim

PEDRO JUAN TAVARES 241-07-06598
09-09 HAZEN ST
E ELMHURST, NY 11370

Dear Claimant:

We acknowledge receipt of your claim, which has been assigned the claim number shown above. Please refer to this claim number in any correspondence or inquiry you may have with our office.

We will do our best to investigate and, if possible, settle your claim. However, if we are unable to resolve your claim, **any lawsuit against the City must be started within one year and ninety days from the date of the occurrence.**

If you have any questions regarding your claim, you may contact us at either 212-669-8750 for property damage claims or 212-669-4445 for claims involving personal injury.

Sincerely,
Michael Aaronson

In The Matter Of The Claim Of
PEDRO JUAN TAVARES

-against-

THE CITY OF NEW YORK

TO: COMPTROLLER OF THE CITY OF NEW YORK

PLEASE TAKE NOTICE that the undersigned claimant hereby make this amend claim pursuant to General Municipal Law 50-e, and demand against The City of New York, as follows:

- 1). The name and post-office address of the claimant is:
Pedro Juan Tavares
VIN# 11-A-2764
Clinton Annex Corr. Facility
P.O.BOX: 2002
Dannemora, New York 12929
- 2). The nature of the claim:
To recover damages for personal injuries and medical expenses sustained as a result of the occurrence hereinbelow described.
- 3). That on April 28 2011 the claimant filed a claim against the City of New York for Medical Negligent
- 4). That on May 5th, 2011 the Office of the Comptroller acknowledged the receiving of the claim and filed it under Claim No: 2011PI020084
- 5). That due to the excess amount of antibiotic that the claimant received between March 17, 2011 and March 22, 2011 in order to control the infection sustained do to defendant medical negligent, the claimant has lost his high tone hearing ability.
- 6). That the State of New York has declared the claimant hearing death and has recommended that the claimant start using hearing aid do to his high tone hearing impediment.
- 7). The iterns of damage or injuries are (include dollar amounts) that upon information and belief the claimant sustained during the defendant were taking care the infection in claimant left hand, with concomitant high tone hearing death to both of claimant ear. Claimant is presently unaware of the amount of medical expenses incurred to date.

TOTAL AMOUNT CLAIMED (\$5.000,000)

The undersigned claimant therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by Law from the date of presentation to you, the claimant intends to csommence an action on this action.

Dated: Clinton County, New York

~~APRIL~~ ^{MARCH} 23, 2012



PEDRO JUAN TAVARES pro-se

State of New York, County of Clinton

I, Pedro Juan Tavares, being duly sworn, deposes and says that I am the claimant in the within matter, that I have read the forgoing Amended Notice of Claim and knows the contents thereof; that the same is true to my own knowledge, excepts as to the matters therein stated to be alleged on information and belief, and that as those matters deponent believes it to be true.

SWORN TO BEFORE ME, THIS

^{MARCH}
28TH DAY OF ~~APRIL~~, 2012


NOTARY PUBLIC

COURTNEY B LAPIER
Notary Public, State of New York
No. 01LA6189940
Qualified In Clinton County
Commission Expires July 7, 2012

FRANKLIN CORRECTIONAL FACILITY
62 BARE HILL ROAD, P.O. BOX 10
MALONE, NEW YORK 12953

NAME: Pedro Tavares DIN: 11-A-2764

CORRECTIONAL FACILITY

(legal mail)



The Clerk of the Court-Prise
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

